

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

OCEAN STATE JOBBERS, INC., d/b/a
OCEAN STATE JOB LOT

and

Case No. 1-CA-
42065

UNITED FOOD AND COMMERCIAL
WORKERS INTERNATIONAL UNION,
LOCAL 328, AFL-CIO

Crista Elzeneiny, Esq., for the General Counsel.
Joseph D. Whelan, Esq., of Providence, RI, for the Respondent.
Alfred Gordon, Esq., of Boston, MA, for the Charging Party.

Decision

Statement of the Case

David L. Evans, Administrative Law Judge. This case under the National Labor Relations Act (the Act) was tried before me in Pawtucket and Providence, Rhode Island, on May 2-4, 2005. On September 9, 2004,¹ United Food and Commercial Workers International Union, Local 328, AFL-CIO, filed the charge in Case No. 1-CA-42065 alleging that Ocean State Jobbers, Inc., d/b/a Ocean State Job Lot (the Respondent), had committed various violations of the Act. On February 28, 2005, after administrative investigation of the charges, the General Counsel of the National Labor Relations Board (the Board) issued a complaint alleging that, on August 16, the Respondent violated Section 8(a)(3) and (1) of the Act by suspending employees Elio Padilla, Juan Saravia, and Hector Pacheco because of their activities on behalf of the Union. (As discussed infra, the employee whom the complaint names as "Hector Pacheco" identified himself at trial as "Edgar Anez"; as this individual testified under oath that Edgar Anez is his true name, he will be referred to as such hereafter, except when the evidence requires the use of "Pacheco" to refer to him.) The complaint, as originally issued, further alleged that the Respondent violated Section 8(a)(1) by an agent's telling employees that they had just been suspended because they had engaged in union activities. And the original complaint further alleged that, on September 22, the Respondent violated Section 8(a)(3) and (1) by discharging Padilla, Anez and Saravia because of their union activities. The Respondent duly filed an answer to the complaint admitting that this matter is properly before the Board but denying the commission of any unfair labor practices. At trial, over the objection of the Respondent, I granted a motion by the General Counsel to amend the complaint also to allege that the Respondent, by one of its supervisors, once threatened its employees with plant closure and job losses if they selected the Union as their collective-bargaining representative.

¹ All dates mentioned are in 2004 unless otherwise indicated.